

REMARKS

The examiner continues to reject claims 3 and 4 under 35 U.S.C. 112, second paragraph, as being indefinite in reciting that the radial copolymer is part di-block. Applicants again disagree and assert that the claim language would be readily understood by the skilled artisan. As set forth in applicants' disclosure, as well as the disclosure of the Lechat U.S. patent application cited by the examiner, the recited diblock content is an indication of the coupling efficiency. The terminology used in applicants' claims would not be indefinite to one of ordinary skill in the art. Due to coupling inefficiency, such polymers are conventionally described as a polymer with a percentage description of diblock. One of less than ordinary skill in the art would clearly understand the metes and bounds of claims 3 and 4. Withdrawal of this Section 112, second paragraph rejection is requested.

Claims 1-3 and 6-11 are rejected under 35 U.S.C. 102 (e) as being anticipated by Lechat et al. (US2005/0020773). The examiner points to paragraphs [0016-0118], including the table set forth in [0018] and to claim 1 to support his assertion of anticipation. With respect to claim 11, the examiner asserts that the block copolymers of Lechat would have at least some elastomeric properties given that diene polymers are generally elastomeric and article containing labels are generally disposed of after use and thus can be said to be disposable and elastic.

Applicants disagree. Lechat does not anticipate applicants' claimed invention.

Lechat is directed to radial block copolymer compositions. The rubbers are described by Lechat as useful in the manufacture of pressure sensitive adhesive compositions for labeling applications. The radial block copolymers of Lechat are prepared by controlling the

coupling efficiency of the coupling reaction so that at least 40 wt % of the di-block material remains uncoupled. As disclosed in paragraphs [0068] to [0071] the rubbers used in the adhesives of Lechat comprise from 10-35 wt %, more preferably from about 15 to 22 wt %, of styrene, and a minimum of at least 40 wt %, most preferable 70 wt % of di-block content. Paragraph [0116] referred to by the examiner characterizes the polymer as containing 49.1 % di-block and having a styrene content of 16.6 wt %. A polymer of the type disclosed for use in applicants claimed hot melt adhesive is not disclosed so as to anticipate applicants' claim 1. Applicants' claim 3, which requires a di-block content of less than about 25 is not anticipated.

Lechat fails to disclose a hot melt adhesive comprising a radial block copolymer (PS-PI-PB)_nX having a styrene content of from 25 wt % to about 50 wt %, a linear block copolymer, and a tackifying resin, and wherein, based on the weight of the adhesive composition, the radial block copolymer is present in amounts of from 15 wt % to about 35 wt %, the linear polymer is present in amounts up to about 20 wt %, the tackifying resin is present in amounts of from about 30 to about 70 wt %.

The Lechat rubber is described as being formulated into pressure sensitive adhesive compositions useful in labeling end uses. Such adhesives would not be useful for bonding elastomeric fibers in the manufacture of disposable absorbent articles as required in claims 10 and 11. The examiner's position that the block copolymers of Lechat would have at least some elastomeric properties and that articles containing labels are generally disposed of after use and thus can be said to be disposable and elastic is without merit.

The term "elastic" in elastic attachment adhesive as used in applicants' disclosure refers the Spandex fiber or nature rubber fiber used as fasten mechanism in. e.g., diaper and adult incontinent undergarments. Use "adhesive" in the recitation of elastic attachment adhesive is directed to at "elastic" substrate. The term "elastic" as used by applicants has nothing to do with the elasticity of the adhesive. Moreover, disposable goods in hygiene industry specifically mean baby diapers, adult-incontinent undergarments and the like. Lechat's disclosure covers the labeling application which is a completely different application category to that of disposable goods in hygiene industry. A labeling product can be used in many areas including building, decoration art, commercial advertising, and of course, bottle and cans. Even though bottles and cans can be disposed of (in US they are normally recycled instead of being disposed), this does not make them disposable goods as one skilled in the art would understand this term.

The claimed invention is not anticipated by Lechat. Withdrawal of this rejection is requested.

Claims 1-4 and 6-12 are rejected under 35 U.S.C. 1032 (b) as being anticipated by Diehl et al. (US 5,292,819). The examiner refers to Examples 1-4 and to Table 1 (col. 14).

Applicants disagree. Diehl does not anticipate applicants' claimed invention, which requires the presence of a linear block copolymer. Diehl fails to disclose the presence of a linear block copolymer, and the examiner fails to provide evidence that linear block copolymer would be a present by-product in the manufactured radial block copolymer. As such, Diehl fails to anticipate the claimed invention.

The claimed invention is not anticipated by Diehl. Withdrawal of this rejection is

requested.

Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kueppers (US 5,939,483). While the examiner again acknowledges that no specific examples exist having all applicants combination of materials, the examiner urges that the disclosure of Kueppers lies within the broad ambit of the claims. Applicants note, with reference to the Advisory action, that the prior rejection of claims 10 and 11 as being obvious over Kueppers has been withdrawn.

Applicants disagree. There is no disclosure which would motivate the skilled artisan to make the adhesive claimed by applicants. Moreover, the adhesive of Kueppers is described for use in packaging applications. See Table I (col. 10), in which the adhesive examples are reported to have viscosities ranging from 1100 to 1470 cPs and 150°C. Such adhesive would not be useful as elastic attachment adhesives.

The claimed invention is not obvious over Kueppers. Withdrawal of this rejection is requested.

The examiner has set forth an obviousness-type double patent rejection of the claims over copending commonly assigned application Serial Nos. 10/779,420. The examiner urges that the scope of the claims overlap.

Obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is not patentable distinct from the subject matter claimed in a commonly owned patent or in a non-commonly owned patent but subject to a joint research agreement. In determining whether a nonstatutory basis exists for a double patenting rejection, the first question to be asked is – does any claim in the application define an invention that is merely an

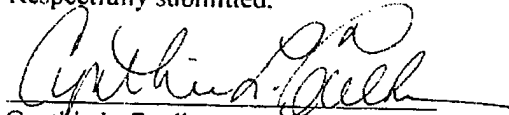
obvious variation of an invention claimed in the patent? If the answer, as here, is no, then an obviousness double patent rejection is not appropriate.

The claims of application Serial No. 10/779,420 are directed to adhesive formulations containing a radial block copolymer (PS-PI-PB)_nX in amounts of less than 15 wt %. In contrast, the claims of the subject application are directed to adhesive formulations containing a radial block copolymer (PS-PI-PB)_nX in amounts of from 15 wt % to about 35 wt %. The claims of the subject application are not obvious variations of the invention claimed in application Serial Nos. 10/779,420.

Applicants submit that the obviousness-type double patenting rejection is improper. Withdrawal is requested.

Applicants submit that the claims are free of the prior art of record. Withdrawal of the outstanding rejections and early and favorable action is requested.

Respectfully submitted,



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